

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,  
Plaintiff,

v.

MATTHEW R. DESCAMPS,  
Defendant.

No. CR-05-104-FVS

ORDER DENYING REQUEST FOR  
RECUSAL

**THIS MATTER** came before the Court on August 10, 2007, based, in part, upon Matthew Descamps' request for recusal. He was represented by Jeffrey S. Niesen; the government by Stephanie Whitaker. This order serves to memorialize the Court's oral ruling.

**BACKGROUND**

Matthew R. Descamps moves the Court to recuse itself. In support of his motion, he writes:

[O]ver the last 10-20 years I initiated lawsuits in the Federal Court against various officials and others. Judge Van Sickle, [sic] doesn't remember it but he dismissed several of those lawsuits writing that my claims were frivolous. In the instant criminal case when I have appeared before Judge Van Sickle he doesn't listen to me. He tells me to sit down and be quiet. Finally, I filed a federal lawsuit against Judge Van Sickle in the Eastern District of Washington.

(Defendant Descamps Decl., at 2.)

**RULING**

Mr. Descamps' factual allegations are not entirely correct. While he has filed at least thirteen actions in this District, only

1 one has been assigned to this Court. On June 28, 2000, Mr. Descamps  
2 petitioned for a writ of habeas corpus while incarcerated in the Pend  
3 Oreille County Jail. He sought permission to proceed in forma  
4 pauperis ("IFP"). The Court determined that he was not eligible for  
5 IFP status and ordered him to pay the \$5.00 filing fee. He did not do  
6 so. As a result, the Court dismissed his habeas petition without  
7 prejudice.

8 With this clarification in mind, it is appropriate to turn to the  
9 governing statute. Subsection (a) of 28 U.S.C. § 455 provides that a  
10 district judge "shall disqualify himself in any proceeding in which  
11 his impartiality might reasonably be questioned." Although Mr.  
12 Descamps may subjectively question the Court's impartiality,  
13 subjective belief, no matter how sincere, is not enough. "The test  
14 for disqualification under § 455(a) is an objective one: whether a  
15 reasonable person with knowledge of all the facts would conclude that  
16 the judge's impartiality might reasonably be questioned." *United*  
17 *States v. Nelson*, 718 F.2d 315, 321 (9th Cir.1983) (citing *United*  
18 *States v. Conforte*, 624 F.2d 869, 881 (9th Cir.1980), *cert. denied*,  
19 449 U.S. 1012, 101 S.Ct. 568, 66 L.Ed.2d 470 (1980)). See also *F.J.*  
20 *Hanshaw Enters., Inc. v. Emerald River Dev., Inc.*, 244 F.3d 1128, 1144  
21 (9th Cir.2001) (same); *United States v. Hernandez*, 109 F.3d 1450, 1453  
(9th Cir.1997) (same); *United States v. Studley*, 783 F.2d 934, 939  
(9th Cir.1986) (same).

22 The Court has carefully considered the record in light of the  
23 preceding standard. Having done so, the Court is satisfied that  
24 recusal is not warranted. The ruling of which Mr. Descamps complains  
25 did not involve the merits of his habeas petition. Furthermore, even  
26 if it had, a party may not obtain recusal based upon an adverse  
ruling. *Leslie v. Grupo ICA*, 198 F.3d 1152, 1160 (9th Cir.1999). Nor

1 may a party obtain recusal because, from time to time, the Court has  
 2 had to admonish him to be quiet. Interruptions and outbursts impede  
 3 the orderly resolution of a case. No judicial officer is required to  
 4 ignore them in the name of fairness. The fact that Mr. Descamps filed  
 5 a civil action earlier this year against a number of persons,  
 6 including the Court, does not change the outcome.<sup>1</sup> "[A] judge is not  
 7 disqualified merely because a litigant sues or threatens to sue him."  
 8 *Ronwin v. State Bar of Arizona*, 686 F.2d 692, 701 (9th Cir.1981)  
 9 (quoting *United States v. Grismore*, 564 F.2d 929, 933 (10th Cir.1977),  
 10 *cert. denied*, 435 U.S. 954, 98 S.Ct. 1586, 55 L.Ed.2d 806 (1978)),  
 11 *rev'd on other grounds sub nom. Hoover v. Ronwin*, 466 U.S. 558, 104  
 12 S.Ct. 1989, 80 L.Ed.2d 590 (1984). As the Ninth Circuit emphasized in  
 13 *Ronwin*, "[s]uch an easy method for obtaining disqualification should  
 14 not be encouraged or allowed." 686 F.2d at 701.

15 **IT IS HEREBY ORDERED:**

16 Mr. Descamps' motions to recuse (**Ct. Recs. 180, 214, and 253**) are  
 17 denied.

18 **IT IS SO ORDERED.** The District Court Executive is hereby  
 19 directed to enter this order and furnish copies to counsel.

20 **DATED** this 17th day of August, 2007.

21 s/ Fred Van Sickle  
 22 Fred Van Sickle  
 23 United States District Judge

24 \_\_\_\_\_  
 25 The case was assigned cause number CV-07-121-EFS. The  
 26 Honorable Edward F. Shea dismissed Mr. Descamps' complaint on  
 June 14, 2007. On June 28th, Mr. Descamps filed a notice of  
 appeal.